

**APPLICANTS:**  
**Michael & Gail Rupprecht**

**REQUEST:** A variance pursuant to  
Section 267-23C(1)(a)(2) of the Harford  
County Code to allow a front porch to  
encroach more than 3 feet into the front  
yard setback

**HEARING DATE:** November 17, 2004

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
  
**Case No. 5451**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANTS:** Michael & Gail Rupprecht

**LOCATION:** 1322 Prospect Mill Road, Cooper's Chance, Bel Air  
Tax Map: 41 / Grid: 2D / Parcel: 587 / Lot: 5  
Third Election District (3<sup>rd</sup>)

**ZONING:** AG / Agricultural

**REQUEST:** A variance pursuant to Section 267-23C(1)(a)(2) of the Harford County  
Code to allow a front porch to encroach more than 3 feet into the front  
setback (6 foot proposed) in an Agricultural District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

Michael Rupprecht, Co-Applicant, described the subject property as being approximately one-quarter acre in size, located on Prospect Mill Road, Bel Air Maryland. The subject property is improved by a one-story, single family home, with approximately 1,400 square feet of living space. Mr. and Mrs. Rupprecht have lived on the subject property for about 38 years.

The Applicants request a variance to allow a re-constructed front porch to encroach more than 3 feet into the required front yard setback. The Rupprecht's proposed porch would encroach a total of 6 feet, which would require a 3 foot variance.

The front porch on the subject property is approximately 4 feet by 5 feet in size, is concrete, uncovered, and was constructed in the mid 1950's. The Applicants propose to expand this porch to a total of 6 feet by 8 feet, which would make the porch extend approximately 2 feet beyond it present boundaries and 2 feet closer to Prospect Mill Road than the present porch. The new porch will be covered.

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Mr. Rupprecht testified that his proposed 6 foot deep porch, if allowed, would be set back approximately 34 feet from the right-of-way line of Prospect Mill Road. The paved portion of Prospect Mill Road itself is approximately 18 to 20 feet from the property line, according to Mr. Rupprecht's testimony, and is also shown on the site plan in the file.

The subject property, according to the Applicant, is planted with mature shrubbery, which will act as a shield or buffer between the porch and the road. The changes to the porch will not be visible to passersby, according to Mr. Rupprecht.

The Applicants have spoken to both neighbors on either side of the subject property; neither neighbor has expressed any objection. Mr. Rupprecht also feels that the proposed variance would improve the look of his property and would not harm any adjoining property or neighbor.

The Harford County Department of Planning and Zoning's Staff Report recommends a finding of uniqueness and further suggests that, because of the curve in Prospect Mill Road, directly in front of the subject property and the staggering of homes along Prospect Mill Road, the reduced setback would not be noticeable.

### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*"Variances.*

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
  - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
  - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

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- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

Section 267-23C(1)(a)(2) of the Harford County Code reads:

*“(a) The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:*

- (2) Bay windows, balconies, chimneys or porches: three (3) feet.”*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The testimony of the Applicant and the photographs in the file, marked as Attachment 8, clearly show the subject property being improved by a single-family, one-story older ranch style dwelling, with a rather inconspicuous front porch, and a front yard which is improved by mature plantings. The house appears to be located in a neighborhood of similar homes.

The property is impacted in an unusual fashion as it has a 40 foot front yard setback (which a porch is allowed to impact by 3 feet without a variance), but also by an additional, unimproved strip of approximately 18 feet between the front yard lot line and the paved portion of Prospect Mill Road.

This unusual feature of the Applicants’ property would cause practical difficulty if the Applicants were not able to construct a porch as proposed, which is no different in appearance and size than many other porches throughout the neighborhood and throughout Harford County. Indeed, the proposed porch is a very modest one by most modern standards.

It is further found that the proposed variance would be virtually unnoticeable to any passerby or adjoining neighbor. The neighbors, in any event, have expressed no opposition to the proposed request. It is further found that the requested variance is the minimum necessary to alleviate the practical difficulty experienced by the Applicants.

It is further found that the proposed variance would have no adverse impact on the neighborhood or adjoining property.

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**CONCLUSION:**

Accordingly, it is recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections for construction of the porch.

Date: December 15, 2004

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner